

MONTANA LEGISLATIVE HISTORY

Chapter 218 19 83

Bill H 352 S _____

Original bill & history ☒ c

H. Committee on Nat. Res.

Hearing Date(s) 1-31 ☒ c

_____ c

_____ c

_____ c

Date Out _____ c

S. Committee on Nat. Res.

Hearing Date(s) 3-9 ☒ c

_____ c

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_____ c

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

PROVIDING AN IMMEDIATE EFFECTIVE DATE.

INTRODUCED: 01/19/83
REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION: 01/19/83
HEARING: 1/26/83
REPORT: 02/09/83, DO PASS, AS AMENDED
2ND READING: 02/11/83, DO PASS AYES: 87; NAYS: 2
3RD READING: 02/15/83, DO PASS AYES: 97; NAYS: 1

TRANSMITTED TO SENATE: 2/15/83
REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION: 02/16/83
HEARING: 3/2/83
REPORT: 3/15/83, BE CONCURRED IN, AS AMENDED
2ND READING: 03/17/83 AYES: 48; NAYS: 0
3RD READING: 03/19/83 AYES: 48; NAYS: 2

RETURNED TO HOUSE WITH AMENDMENTS: 3/19/83
2ND READING: 03/31/83, BE CONCURRED IN AYES: 87; NAYS: 0
3RD READING: 04/01/83, BE CONCURRED IN AYES: 85; NAYS: 0

TRANSMITTED TO GOVERNOR: 04/11/83
SIGNED: 04/13/83, CHAPTER 473

HB 350 -- HAMMOND, FULLER -- SPECIFYING THE TIME PERIOD DURING WHICH THE BOARD OF
PARDONS SHALL INVESTIGATE A PRISONER TO DETERMINE HIS SUITABILITY FOR PAROLE; AMENDING
SECTION

BY REQUEST OF: THE BOARD OF PARDONS ,

INTRODUCED: 01/19/83
REFERRED TO COMMITTEE ON JUDICIARY: 01/19/83
HEARING: 1/31/83
REPORT: 01/31/83, DO PASS
2ND READING: 02/02/83, DO PASS AYES: 96; NAYS: 0
3RD READING: 02/04/83, DO PASS AYES: 97; NAYS: 0

TRANSMITTED TO SENATE: 02/05/83
REFERRED TO COMMITTEE ON JUDICIARY: 02/05/83
HEARING: 2/9/83
REPORT: 02/09/83, BE CONCURRED IN
2ND READING: 02/12/83 AYES: 48; NAYS: 0
3RD READING: 02/15/83 AYES: 49; NAYS: 0

RETURNED TO HOUSE: 2/15/83

TRANSMITTED TO GOVERNOR: 02/21/83
SIGNED: 2/24/83, CHAPTER 45

HB 351 -- DEVLIN, SWITZER, ASAY, ET AL. -- TO ENCOURAGE THE BREEDING AND RACING OF
MONTANA HORSES BY ALLOCATION OF AN ADDITIONAL 1 PERCENT OF PARIMUTUEL GROSS RECEIPTS
TO OWNERS OF MONTANA-BRED HORSES; AMENDING SECTION

INTRODUCED: 01/19/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 01/19/83
DIED IN COMMITTEE

HB 352 -- REAM -- TO ALLOW THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO TAKE
ENFORCEMENT ACTION BASED UPON VIOLATION OF AN AIR QUALITY PERMIT; AMENDING SECTIONS

....
BY REQUEST OF: THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

INTRODUCED: 01/19/83

REFERRED TO COMMITTEE ON NATURAL RESOURCES: 01/19/83

HEARING: 1/31/83

REPORT: 01/31/83, DO PASS

2ND READING: 02/02/83, DO PASS AYES: 92; NAYS: 2

3RD READING: 02/04/83, DO PASS AYES: 92; NAYS: 4

TRANSMITTED TO SENATE: 02/05/83

REFERRED TO COMMITTEE ON NATURAL RESOURCES: 02/05/83

HEARING: 3/9/83

REPORT: 3/10/83, BE CONCURRED IN

2ND READING: 03/12/83 AYES: 46; NAYS: 0

3RD READING: 03/15/83 AYES: 46; NAYS: 0

RETURNED TO HOUSE: 03/15/83

TRANSMITTED TO GOVERNOR: 03/21/83

SIGNED: 03/23/83, CHAPTER 218

HB 353 -- SHONTZ, ABRAMS, ETCHART -- TO REPEAL SECTION ..., WHICH REQUIRES 24-HOUR CHECKING STATIONS ON THE MAJOR HIGHWAYS ENTERING THE STATE.

BY REQUEST OF: THE DEPARTMENT OF HIGHWAYS

INTRODUCED: 01/19/83

REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION: 01/19/83

HEARING: 1/27/83

REPORT: 02/01/83, DO PASS

2ND READING: 02/03/83, DO PASS AYES: 88; NAYS: 0

3RD READING: 02/05/83, DO PASS AYES: 91; NAYS: 0

TRANSMITTED TO SENATE: 2/5/83

REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION: 02/07/83

HEARING: 2/17/83

REPORT: 02/18/83, BE CONCURRED IN

2ND READING: 03/04/83 AYES: 47; NAYS: 0

3RD READING: 03/07/83 AYES: 45; NAYS: 3

RETURNED TO HOUSE: 3/7/83

TRANSMITTED TO GOVERNOR: 03/15/83

SIGNED: 3/16/83, CHAPTER 104

HB 354 -- SANDS, KOLSTAD, FAGG, ET AL. -- TO MAKE PERMANENT THE CLARIFICATIONS OF THE SMALL A BUSINESS INVESTMENT CREDIT STATUTES AND THE TEMPORARY INCREASE IN THE SMALL BUSINESS INVESTMENT CREDIT ENACTED BY THE 47TH LEGISLATURE; AMENDING SECTION

INTRODUCED: 01/19/83

REFERRED TO COMMITTEE ON TAXATION: 01/19/83

HEARING: 2/1/83

DIED IN COMMITTEE

HB 355 -- SANDS, RAMIREZ, ADDY, ET AL. -- TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO EVIDENCE; AMENDING SECTIONS ...; REPEALING SECTIONS

BY REQUEST OF: THE MONTANA SUPREME COURT AND THE MONTANA SUPREME COURT COMMISSION

1 House BILL NO. 352
2 INTRODUCED BY Ream
3 BY REQUEST OF THE DEPARTMENT OF HEALTH
4 AND ENVIRONMENTAL SCIENCES
5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE DEPARTMENT
7 OF HEALTH AND ENVIRONMENTAL SCIENCES TO TAKE ENFORCEMENT
8 ACTION BASED UPON VIOLATION OF AN AIR QUALITY PERMIT;
9 AMENDING SECTIONS 75-2-401, 75-2-403, 75-2-412, AND
10 75-2-413, MCA."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13 Section 1. Section 75-2-401, MCA, is amended to read:
14 "75-2-401. Enforcement. (1) When the department
15 believes that a violation of this chapter, or a rule made
16 under ~~it this chapter, or a condition or limitation imposed~~
17 ~~by a permit issued pursuant to this chapter~~ has occurred, it
18 may cause written notice to be served personally or by
19 registered or certified mail on the alleged violator or his
20 agent. The notice shall specify the provision of this
21 chapter, ~~or the rule, or permit condition or limitation~~
22 alleged to be violated and the facts alleged to constitute a
23 violation and may include an order to take necessary
24 corrective action within a reasonable period of time stated
25 in the order. The order becomes final unless, within 30 days

1 after the notice is received, the person named requests in
2 writing a hearing before the board. On receipt of the
3 request, the board shall schedule a hearing.

4 (2) If, after a hearing held under subsection (1) of
5 this section, the board finds that violations have occurred,
6 it shall either affirm or modify an order previously issued
7 or issue an appropriate order for the prevention, abatement,
8 or control of the emissions involved or for the taking of
9 other corrective action it considers appropriate. An order
10 issued as part of a notice or after a hearing may prescribe
11 the date by which the violation shall cease and may
12 prescribe time limits for particular action in preventing,
13 abating, or controlling the emissions. If, after hearing on
14 an order contained in a notice, the board finds that no
15 violation is occurring, it shall rescind the order.

16 (3) Instead of issuing the order provided for in
17 subsection (1), the department may either:

18 (a) require that the alleged violators appear before
19 the board for a hearing at a time and place specified in the
20 notice and answer the charges complained of; or

21 (b) initiate action under 75-2-412 or 75-2-413.

22 (4) This chapter does not prevent the board or
23 department from making efforts to obtain voluntary
24 compliance through warning, conference, or any other
25 appropriate means.

INTRODUCED BILL

(5) In connection with a hearing held under this section, the board may and on application by a party shall compel the attendance of witnesses and the production of evidence on behalf of the parties."

Section 2. Section 75-2-403, MCA, is amended to read:

"75-2-403. Inspections. (1) The department, for the purpose of ascertaining the state of compliance with this chapter ~~and or rules and permits~~ in force under it, may enter and inspect, at any reasonable time, any property, premises, or place, except a private residence, on or at which an air contaminant source is located or is being constructed or installed.

(2) A person may not refuse entry or access to an authorized representative of the department who presents appropriate credentials when the department requests entry for purposes of inspection. A person may not obstruct, hamper, or interfere with an inspection.

(3) At his request, the owner or operator of the premises shall receive a report stating all facts found which relate to compliance status."

Section 3. Section 75-2-412, MCA, is amended to read:

"75-2-412. Criminal penalties — injunction preserved.

(1) A person who violates this chapter or a rule, ~~or order,~~ or permit made or issued under it, other than 75-2-105, is guilty of an offense and subject to a fine not to exceed

\$1,000. Each day of violation constitutes a separate offense.

(2) A person who willfully violates 75-2-105 is guilty of an offense and subject to a fine not to exceed \$1,000.

(3) Fines collected shall be deposited to the state general fund.

(4) Action under this section is not a bar to enforcement of this chapter or of ~~rules or orders~~ a rule, order, or permit made or issued under it by injunction or other appropriate remedy. The department may institute and maintain in the name of the state any enforcement proceedings."

Section 4. Section 75-2-413, MCA, is amended to read:

"75-2-413. Civil penalties — out-of-state litigants — effect of action. (1) Any person who violates any provision of this chapter or any rule enforced thereunder or any order or permit made or issued pursuant thereto and after notice thereof has been given by the department shall be subject to a civil penalty not to exceed \$10,000. Each day of violation shall constitute a separate violation. The department may institute and maintain in the name of the state any enforcement proceedings hereunder. Upon request of the department, the attorney general or the county attorney of the county of violation shall petition the district court to impose, assess, and recover the civil

1 penalty. The civil penalty is in lieu of the criminal
2 penalty provided for in 75-2-412.

3 (2) (a) Action under subsection (1) of this section is
4 not a bar to enforcement of this chapter or of ~~rules or~~
5 ~~orders a rule, order, or permit~~ made ~~or issued~~ under it by
6 injunction or other appropriate civil remedies.

7 (b) An action under subsection (1) or to enforce this
8 chapter or ~~the rules or orders a rule, order, or permit~~ made
9 ~~or issued~~ under it may be brought in the district court of
10 any county where a violation occurs or is threatened if the
11 defendant cannot be located in Montana.

12 (3) Moneys collected hereunder shall be deposited in
13 the state general fund."

-End-

STATUS SHEET

HOUSE NATURAL RESOURCES COMMITTEE

Page 3

48th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 228	Promotes consistency and continuity in the adoption and application of environmental rules	1/13	Quilici	2/2	AND AS AMENDED DO PASS	2/18
HB 260	Clarifies that the resource indemnity trust account may be used for mitigating mining impacts	1/17	D. Brown	1/28	AND AS AMENDED DO PASS	2/9
HB 263	Amends the Montana MFSA to delete the provision exempting federal facilities from its coverage	1/17	Ream	1/31	AND AS AMENDED DO PASS	2/2
HB 287	Provides that the rec. bond required by the opencut mining act may be greater than \$1000 per acre if State Lands determines it costs more	1/18	Harper	1/26	DO PASS	1/26
HB 305	Increases the amount of timber subject to the 10-day minimum advertisement period prior to sale by the Dept. of State Lands from 200,000 to 1 million bf	1/18	Harp	1/31	DO PASS	1/31
HB 352	Allows the Health Dept. to take enforcement action based upon violation of an air quality permit	1/19	Ream	1/31	DO PASS	1/31

HOUSE NATURAL RESOURCES COMMITTEE MINUTES
January 31, 1983

The House Natural Resources Committee convened at 12:30 p.m. on January 31, 1983, in Room 224K of the State Capitol with Chairman Hal Harper presiding and all members present except Rep. Dave Brown who was absent. Chairman Harper opened the meeting to a hearing on HB 305.

HOUSE BILL 305

REPRESENTATIVE JOHN HARP, District 19, chief sponsor, said this bill pertains to a change in existing law in that it increases the emergency sale of timber from 200,000 to 1 million board feet. With the restrictions in the present law it is often a month to a month and a half after the problem is spotted before anything can be done and in the higher elevations that could mean the next spring and then there might not be much of value left. The bill would call for at least ten days for bids and it would go to the highest bidder. This bill would benefit the school trust fund as it would maximize returns for timber in these emergency situations.

RANDY MOSLEY, Department of State Lands, spoke next in support and a copy of his testimony is Exhibit 1 of the minutes.

ROBERT N. HELDING, Montana Wood Products Association, spoke next in support. He mentioned the pine beetle infestation in different sections of Montana and said this bill would help utilize the infested timber.

CHAIRMAN HARPER closed.

Questions were asked by the committee.

Rep. Fagg asked how many board feet would there be on a truck. Approximately 4-5,000 board feet was the answer. Rep. Fagg asked if the timber from the trees infested by the pine beetles were being used for white pine interior paneling. He said he understood there was a fairly good market for this. Mr. Holding said it is being promoted but so far not that much of a market exists.

Chairman Harper closed the hearing on HB 305 and opened the hearing on HB 352.

HOUSE BILL 352

REPRESENTATIVE BOB REAM, District 93, chief sponsor, said the bill is due to a flaw that exists in the law as it pertains to the Air Quality Bureau. The Air Quality Bureau can enforce the regulations established but it cannot enforce violations of the permit except to completely revoke the permit. He said this law will

HOUSE NATURAL RESOURCES COMMITTEE MINUTES

January 31, 1983

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make it consistent with the Clean Water Act. He said there should be some provision for enforcement besides just closing down a company.

HAL ROBBINS, Department of Health, spoke next in support and a copy of his testimony is Exhibit 2 of the minutes.

DON REED, Montana Environmental Information Center, spoke next in support and a copy of his testimony is Exhibit 3 of the minutes.

REPRESENTATIVE REAM closed.

Questions were asked by the committee.

Rep. Quilici asked for how long the permits are granted. Mr. Robbins said for the life of the facility. Rep. Hand asked if this would change any of the specifications. Mr. Robbins said no, that all they were trying to do with the bill is to have this consistent with how we enforce other rules.

Chairman Harper closed the hearing on HB 352 and opened the meeting to a hearing on HB 263.

HOUSE BILL 263

REPRESENTATIVE BOB REAM, District 93, chief sponsor, said the bill looks like a simple bill as it just deletes one subsection but it involves a very complicated issue. He said the law as it is written is very confusing at best and it just might be giving away state's rights that we don't want to give away. He said when the act was passed this language was included just to prevent possible conflict with the U.S. Supremacy Act. Rep. Ream presented a proposed amendment which is Exhibit 4 of the minutes. A copy of the information sheet passed to the members is Exhibit 5 of the minutes. He said Don McIntyre, Department of Natural Resources, and Sheri Sprigg, Attorney General's Office, were present to answer questions.

REPRESENTATIVE BOB MARKS, District 80, said he was one of the sponsors of the bill. He said this closes a back door approach to building power lines through the center of his county. He said apparently because of a possible time delay the consortium asked the BPA to build the power line from Townsend to Garrison. Instead of applying for an amended certificate the BPA consortium went to the BPA and asked them to build the land. So they were able to avoid going through the process of siting a massive installation and he said this is of great concern to his people. If it had been built by private construction as originally proposed, they would at least have become taxpaying neighbors. He said the purpose of the bill is to at least have a hearing process that the people can have an input to where it will be placed.

John Carter said what keeps the department honest is that other private parties out there might be interested in buying the timber. If there were only ten days and not a legitimate emergency, it would only happen once.

Rep. Addy mentioned that the National Park Service has the policy of letting the pine beetle and forest fires run their course. He said they use it as a management tool. Rep. Mueller said there is a difference with active commercial forests that are returning income to the state. He said if you are managing a forest stand for the long pull you must control the insect infestation.

The question was called and the motion of DO PASS carried unanimously with all present (absent were Reps. Brown and Asay). Rep. Quilici had left a yes vote on this bill.

HOUSE BILL 352 Rep. Bertelsen moved DO PASS. This motion carried unanimously with those present.
Rep. Asay and Quilici had left yes votes and Rep. Brown was absent.

HOUSE BILL 8 Rep. Hand moved the amendments (Exhibit 9 of the minutes). He said this subject comes up almost every session and he said his proposal would transfer the rights of owners that can't be found to the Board of Land Commissioners.

Rep. Iverson said he would oppose the motion as the primary reason for the bill is that over the last several years there has been a flow of rights from the surface owner. He said he thought the idea was to provide some mechanism to reverse the flow and let the surface owner get the rights.

Rep. Curtiss felt the amendment would kill the intent of the bill.

The question was called and the motion failed with Rep. Hand voting for and all others present opposing the motion.

Rep. Iverson moved the amendments, Exhibit 10. The amendments were approved unanimously by all present (absent were Reps. Quilici, Neuman, Brown and Asay).

John Carter upon request of the chair said the question was raised by several parties if the bill covered both mineral and royalty interests. He said this is the question that was submitted to the attorney in Billings, Mr. Louis Moore. Mr. Moore had determined the bill as written did confuse mineral rights with royalty interests. Mr. Carter said the amendments also clears up Mr. Romine's problem as it makes

Sal Robb
EX. 2

TESTIMONY
HB 352
(1983 Legislature)

presented on behalf of the
Montana Department of Health and Environmental Sciences

The Department of Health and Environmental Sciences (DHES) would like to thank you for the opportunity to present testimony in favor of the proposed legislation. HB 352, proposed by request of the DHES, would clear up certain problems with enforcement of permits in the Montana Clean Air Act (75-2-101 et. seq. MCA). In order to facilitate an explanation of the proposal and rationale for its adoption, the testimony has been divided into the following sections:

Background;

Need;

Department Activities Related to the Bill;

Summary

BACKGROUND

The Montana Clean Air Act (Title 75, Chapter 2, MCA) states "It is the public policy of the state to achieve and maintain such levels of air quality as will protect human health and safety . . .". In order to accomplish this goal, the Act empowers duties and responsibilities to the DHES and the Board of Health and Environmental Sciences. The Board's primary function is to set general policy through passage of rules designed to protect air quality and control air pollution emissions. The Department, on the other hand, is charged with carrying out those rules and regulations. To achieve compliance with these standards, the Act provides many enforcement procedures. The enforcement options range from efforts to obtain voluntary compliance to the formal proceedings in Part 4 of the Act. Part 4 catalogues a number of enforcement options including: a) Notice of Violation and An Order to Correct; b) Order to Appear before the Board; c) Civil Penalties; and d) Criminal Penalties.

In addition to the Act, administrative rules of Montana 16.87.1101 et. seq. require that certain facilities with the potential to emit pollutants into the outdoor atmosphere require a permit. (These rules were adopted pursuant to the authority in 75-2-203 MCA). The rules also permit the DHES to attach certain conditions and/or limitations to the permit in order to comply with the intent of the Act. Frequently this includes an emission limitation, air pollution control technology, and so forth.

NEED FOR THE LEGISLATION

The Department believes that a minor flaw exists in the Act as it relates to air quality permits. The enforcement section of the Clean Air Act declares that the Department may take enforcement action against someone for a "violation of this chapter or rule made under it." It is noted that the enforcement proceedings, therefore, only apply to direct violations of the Act, or violations of a rule made pursuant to the Act. It does not cover violations of a permit condition. It can be concluded, therefore, that the Act did not specifically contain provisions for enforcement of permit conditions.

ARM 16.8.1112 provides the only explicit language concerning a violation of a permit. This rule grants the Department the authority to revoke the entire permit and therefore discontinue the facility's operation.

It is readily obvious that some gap exists in the enforcement of air quality permit conditions. Clearly revocation of a permit as the only enforcement option is a most serious enforcement action. The Department is reluctant to invoke such an option. Also, it is patently unfair to the facility to be subjected to such a harsh penalty for what may only be a minor problem. It would be in the facility's best interest to allow the Department to use other enforcement options than revocation of its right to operate the facility.

It is submitted that those who wrote the Act did not intentionally foresee this split enforcement role. The Department asserts it is merely an oversight that needs correction. The Clean Water Act, for example, does allow enforcement of permit conditions (75-5-612(2)) in much the same manner suggested in the bill. It is appropriate, therefore, to afford the same procedures for air quality permit violations.

PROPOSAL

The bill proposes to modify Part 4 of the Act to allow the Department to take the same enforcement action for violations of a permit as violations of the Act, or rules made pursuant to the Act. In simple terms, the bill modifies the Act in four locations:

- 75-2-401 Inserts language to allow the Department to proceed with Notice of Violation and Order to Correct for permit violations;
- 75-2-403 Inserts language to allow the Department to inspect facilities to determine compliance with permit conditions;
- 75-2-412 Includes permit violations in criminal penalty proceedings; and
- 75-2-413 Includes permit violations in civil penalty proceedings.

The bill should be self-explanatory.

DEPARTMENT ACTIVITIES RELATED TO THE BILL

It has been the Department's policy for a number of years to allow public comment on proposed rules and policy well in advance of hearings conducted by the Board of Health or the Legislature. This legislation is no exception.

On August 31, 1982, the Department informed our mailing list of several pieces of legislation being considered for this session. (The mailing list includes over 50 names, including most major industrial and environmental interests. A copy of this mailing list can be supplied upon request.)

The August memo outlined four proposed alterations to the Act. One of those proposals was, of course, the essence of HB 352. Quite to our surprise, no one submitted any comments regarding any of the proposals. It is rather unusual to make air quality proposals without responses from those who might be affected.

During the past week the Department attempted to contact most of the industrial and environmental interests who might be concerned with the passage or defeat of the bill. The Department believes that most of the persons concerned with this legislation have been contacted by the Department.

SUMMARY

The Montana Clean Air Act provides for a range of enforcement proceedings for violations of the Act or rules made pursuant to the Act. While these enforcement proceedings do provide a wide range of options, the Act does not specifically allow these same proceedings for violations of permit conditions. The only current enforcement option of a permit condition is revocation of the permit.

This bill would allow the Department to enforce against violations of a permit in the same manner as a violation of any other rule or regulation.

The Department has attempted to contact all parties that may be affected by the passage of the bill. No negative comments were received prior to this date.

The Department believes that this is a reasonable bill and would allow enforcement actions for permit violations to be within the same scope as all other enforcement actions. This request is consistent with existing Water Quality legislation and is consistent with the goals of the Clean Air Act. The Department respectfully requests passage of this bill.

WITNESS STATEMENT

Name Don Reed Committee On Nat. Res.
Address P.O. Box 1184, Helena Date 1/31/83
Representing MEIC Support ✓
Bill No. 352 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Pertinent standard often doesn't appear in the law or in the rules.
2. HB 352 allows fair + equitable enforcement of Clean Air Act.
3. (see written testimony)
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

HB 352

Presented to the House Committee on Natural Resources

By the Montana Environmental Information Center

January 31, 1983

HB 352 allows the Department of Health and Environmental Sciences to take enforcement action based upon violation of an air quality permit. Presently, the law allows enforcement action only when the law or rules are violated.

The ability of the Department to enforce air quality permits is essential to our overall air quality program. Unlike many other environmental statutes, the Federal Clean Air Act and the Montana Clean Air specify only some of the standards which a source must meet. Other standards are specified in the rules. Yet even other standards are described in the rules. That is, the rules set up a procedure for determining the actual standards in effect for a given source at a given time. One example of this is the Prevention of Significant Deterioration program.

As a result, the technical standards for a source may be found only in the air quality permit in some instances. Thus, it makes sense to allow enforcement action based on a violation of that permit.

VISITOR'S REGISTER

HOUSE NATURAL RESOURCES

COMMITTEE

BILL HB 352

DATE 1/31

SPONSOR REAM

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

48TH

LEGISLATIVE SESSION

COMMITTEE ON SENATE NATURAL RESOURCES

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
HB 324	2-03-83	3-11-83	3-11-83				3-11-83		
HB 352	2-05-83	3-09-83	3-09-83				3-09-83		
HB 373	3-01-83	3-14-83	3-14-83				3-14-83		
HB 391	2-16-83	3-02-83	3-07-83					3-07-83	
HB 436	2-04-83	3-09-83	3-09-83				3-09-83		
HB 472	3-02-83	3-14-83	3-14-83				3-14-83		
HB 520	2-17-83	3-02-83	3-02-83				3-02-83		
HB 615	2-12-83	3-04-83	3-04-83					3-04-83	
HB 630	2-16-83	3-02-83	3-02-83				3-02-83		

Use a separate sheet for Senate, House Bills, and Resolutions

Minutes
Senate Natural Resources Comm.
March 9, 1983

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HB 135 (cont.)

Senator Shaw inquired into effective date, it was noted the bill would be effective on passage. Senator Shaw said this would be helpful to projects beginning this spring. There was no further discussion and hearing was closed.

HOUSE BILL 436: Chairman Dover called on Rep. John Harp, Dist. 19, and opened hearing. Representative Harp said the bill is to remove the confidentiality of reports on stratigraphic test wells. Presently the board has a three year period where they impound those findings and do not release them to the public. The board says storage of these findings is a problem, they would prefer the owners would have them.

PROPONENTS: Dee Rickman, Executive Secretary for the Board of Oil and Gas, stated they were not planning to testify, just appeared to hear the bill.

OPPONENTS: There were no opponents.

Senator Halligan inquired as to information which would be looked for in the petroleum process. Ms. Rickman said that there is not that much interest at this time, there may be in the future with other energy development.

Senator Keating inquired as to size of the holes, and whether there was a change from 4 1/2"? Ms. Rickman said to her knowledge there was no change. Mr. Allen said the information is useful for locating rock formations and correlating that information. Hearing was then closed.

ACTION ON HOUSE BILL 436: Senator Keating moved that House Bill 436 Be Concurred In, vote was called, a majority voted 'aye', Senators Story, Manning, Lee and Mohar were absent for the vote, motion carried.

ACTION ON HOUSE BILL 135: Senator Etchart moved that HB 135 Be Concurred In. Senator Shaw said he has some reservations on the easements for windmills, that someone might be sorry for having granted the easements years down the road. It was explained the easement is not for the windmills, but is just to leave air space. Roll call vote was taken, motion passed, Senator Shaw voted 'no'.

HOUSE BILL 352: Chairman Dover called on Bob Ream, sponsor and opened hearing. Rep Bob Ream, District 93, stated this bill is introduced at request of the Environmental Quality Bureau, and would allow for enforcement of the clean air act when there is pollution violations. The bureau could revoke the permit. This brings the clean air act parallel with the clean water act, as it has this enforcement.

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HB 352 (cont.)

PROPOSERS: Hal Robbins, Air Quality Bureau, Dept. of Health, said the Board of Health is the agency that sets the rules, the Department enforces them, and this bill relates to enforcing. The bill is to make the enforcement of air quality consistent with clean water enforcement.

OPPOSERS: Don Allen, Montana Petroleum Association, stated that he did not object to the bill entirely, however as they read it there could be things put into the permit that wouldn't have to be, and problems could be created for people wanting to do business in the future. He has had his attorneys look at the bill, they are not certain as to what this bill does.

Senator Halligan inquired of Mr. Robbins his answer as to what could be put in the permit? Mr. Robbins said that the board of health, when it adopted permit rules realized it would be up to the discretion of the department to define what would be in the permit to comply, and each source is treated differently by the situation. Permit rules do allow for appeal to the Board of Health if a business feels it is unfair, however there hasn't been an appeal in 5 years.

Senator Eck asked Mr. Robbins if in permitting, they do consider such things as equipment. Mr. Robbins said they do, that certain types of equipment are recommended.

There was further discussion, with Mr. Robbins further explaining the permit process. At present they have no means of enforcement other than withdrawing a permit, the bill would allow fining for enforcement.

Representative Ream said the bill was sent out to the industries, there was very little response. Hearing was then closed.

ACTION ON HOUSE BILL 352: Senator Eck moved that House Bill 352 Be Concurred In, vote was called, motion carried. Senator Halligan would carry the bill on floor of the Senate.

ACTION ON HOUSE BILL 8: Termination of severed mineral interests. Senator Etchart moved that House Bill 8 be layed on the table. Senator Etchart said that there had been input from people who think we are stealing their property rights. There was discussion by committee members. Senator Story stated that if the bill is not tabled, he would have amendments. Senator Shaw expressed concern that persons owning land that has severed mineral interest where no heirs can be found can do nothing with their land. Roll call vote was taken on a substitute motion of Senator Tveit that

ROLL CALL

SENATE NATURAL RESOURCES COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 3-9-83

NAME	PRESENT	ABSENT	EXCUSED
ECK, Dorothy (D)	✓		
HALLIGAN, Mike (D)	✓		
KEATING, Thomas F. (R)	✓		
LEE, Gary P. (R)			✓
MANNING, Dave (D)		—	✓
MOHAR, John (D)	✓		
SHAW, James N. (R)	✓		
STORY, Pete (R)	✓		
TVEIT, Larry J. (R)	✓		
VAN VALKENBURG, Fred (D)	✓		
ETCHART, Mark (R) Vice Chairman	✓		
DOVER, Harold L. (R) Chairman	✓		

Stephens.

✓

STANDING COMMITTEE REPORT

March 9

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PRESIDENT:

MR.

We, your committee on **NATURAL RESOURCES**

having had under consideration **HOUSE** Bill No. **352**

Ream (Halligan)

Respectfully report as follows: That **HOUSE** Bill No. **352**

BE CONCURRED IN
DO PASS